



## David Semark

Called: 2009

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David 'Produces excellent work and represents exceptional value for an experienced litigator.' (Legal 500). David previously trained in the Shipping Department of one of South Africa's leading maritime and international trade firms, before joining and later becoming a partner at what is now known as Reed Smith. He retrained as a barrister and became a member of Quadrant in 2010.

David specialises in commercial law, with a particular emphasis on shipping and maritime law (especially dry shipping disputes), international trade and commodities, jurisdictional disputes and insurance. Although his practice is primarily as an advocate, he is also an LCIA arbitrator.

David was in the Supreme Court with Simon Rainey QC in October 2018 on the issues as to the burden of proof under the Hague / Hague-Visby Rules raised on the appeal in *Volcafe Ltd v Compania Sud Americana de Vapores SA* [2016] EWCA Civ 1103.

David was shortlisted for Shipping Junior of the Year for the Legal 500 UK Awards 2020. He is the co-author of *P&I Clubs: Law and Practice* (2010, 4th ed.) and *Maritime Letters of Indemnity* (2014, 1st ed.)

### What the directories say

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- *"Sharp, strong academically but simultaneously practical and commercial. His former life as a solicitor means he really understands the clients' perspective too."* (Legal 500, 2022)
- *"Clever, knowledgeable, hard-working, and well-organised."* (Legal 500, 2021)
- *"He is very level headed and measured in his advice."* (Legal 500, 2020)
- *"...Produces excellent work and represents exceptional value for an experienced litigator."...* (Legal 500)

### Commodities & International Trade

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David has a strong commodities practice and has a close understanding of the various trading houses. He has worked on cases involving action for damages, failure to supply, misrepresentation, breach of contract, force majeure, conflicts of law, letters of credit, scope of "certificate final" and validity of quantum assessment. He also acts in trade arbitrations (GAFTA, FOSFA, RSA, LME).

**Sovarex S.A. v. Romero Alvarez S.A.** [2011] 2 Lloyd's Rep. 320 Jurisdiction - Whether proceedings should be stayed in favour of Spain - Application to enforce FOSFA arbitration award under s. 66 of the Arbitration Act 1996 - Effect of real doubt as to the validity of the award on the s. 66 application

### Insurance

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**Covea Fleet S.A. v. El Hadji Ousseynou Diouf** [2014] EWHC 2010 (QB) Insurance - Claim by French insurer under Art. R211.13 of the Code des Assurances - Challenge to time bar and domicile - Whether matter suitable for summary judgment.

## International Arbitration

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David has acted on many arbitrations covering a range of issues including repudiatory breach of contract, conflicts of law, alleged fraud, validity of Letters of Credit, and misrepresentation among many others. Illustrative reported cases include:

- **Navig8 Chemicals Pools Inc v. Nu Tek (HK) PVT Ltd and others** [2016] EWHC 1790 (Comm) Freezing injunction in support of enforcement of Arbitral Award - liability of respondent company directors for committal for failure to comply with asset disclosure provisions in the freezing order.
- **Occidental Chartering Inc v. Progress Bulk Carriers** [2012] EWHC 3515 (Comm) Arbitration Appeal - s. 69 - Approach to the construction of an arbitral award.
- **Sovarex S.A. v. Romero Alvarez S.A.** [2011] 2 Lloyd's Rep. 320 Jurisdiction - Whether proceedings should be stayed in favour of Spain - Application to enforce FOSFA arbitration award under s. 66 of the Arbitration Act 1996 - Effect of real doubt as to the validity of the award on the s. 66 application
- **X v. Y** [2011] 1 Lloyd's Rep. 694 Shipping - Modified Centrocon arbitration clause - Consecutive voyage charter - Whether arbitration commenced within 12 months of final discharge or termination of charterparty.

## Shipping

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David has a broad shipping practice centring on dry work although wet work is also undertaken.

- **Volcafe Ltd v Compania Sud Americana de Vapores SA** [2018] UKSC 61; [2016] EWCA Civ 1103; [2015] EWHC 516 (Comm) – leading case on burden of proof under the Hague / Hague-Visby Rules.
- **Dera Commercial Estate v Derya Inc** [2018] EWHC 1673 (Comm) – Hague Rules, whether a geographic deviation from the contractual route displaces the entire bill of lading contract.
- **Terminal Contentitori Porto di Genova v. China Shipping Container Lines** [2014] EWHC 1629 (Comm) Shipping - Damage to Port Infrastructure - Allegations of inadequate mooring, negligent navigation and unsafe berth - Approach to the calculation of wind loads.
- **HMM Co. Ltd v. Trafigura Beheer BV** [2012] 1 Lloyd's Rep. 211 Shipping - Clause 24 of Shelltime 3 form - Gasform C - Construction of the Charterparty - Whether Owner's performance warranty excluded weather conditions in excess of BF 4.
- **The Gaz Energy** [2012] EWHC 1686 (Comm) Shipping - Speed and Performance Claims - Whether underconsumption of bunkers to be calculated by reference to the higher or lower consumption range implied by the qualification "about".
- **"X v. Y"** [2011] 1 LLRP 42: Arbitration Appeal - Time bar – Modified Centrocon arbitration clause – Consecutive voyage charter – Whether arbitration commenced within 12 months of final discharge or termination of charterparty.

## Jurisdictional Disputes and Conflicts of Laws

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**Sovarex S.A. v. Romero Alvarez S.A.** [2011] EWHC 1661 (Comm) Jurisdiction - Whether proceedings should be stayed in favour of Spain - Applications to enforce FOSFA arbitration award under s. 66 of the Arbitration Act 1996 - Effect of real doubt as to the validity of the award on the s. 66 application.

## Academic

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B. Comm. (Stell.), LL.B. (Stell.), LL.M. (Maritime Law)(Soton.)

## Awards

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Blackstone Prize 1998

## Ranking

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## Publications

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Co-author, P&I Clubs: Law and Practice (2010, 4th ed.) and Maritime Letters of Indemnity (2014, 1st ed.)  
Numerous articles

## Appointments

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After a previous career as an army officer, David trained in the Shipping Department of one of South Africa's leading maritime and international trade firms, before joining the Shipping Group of Richards Butler in London as an assistant solicitor and then a partner in the merged firm, Reed Smith Richards Butler LLP before switching to the Bar and retraining as a barrister at the end of 2009.